

DECLARATION OF FOREIGN ASSETS AND INCOME & BLACK MONEY ACT

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INTRODUCTION – TOPICS COVERED IN TODAY'S PROGRAM



- **Awareness** about the need for proper declaration of foreign assets and income.
- **Objectives** of Black Money Act
- **To whom** does the BMA apply
- Who is a **resident**
- What is **Foreign Income** and **Foreign Assets**

INTRODUCTION – TOPICS COVERED IN TODAY’S PROGRAM



- Who should disclose **foreign income** and **foreign assets**
- Who are **beneficial owners** and **beneficiaries**
- **Where** to disclose foreign income and assets
- **When** to disclose the foreign income and assets
- **How** to disclose the foreign income and assets
- What to do if Income Tax Return has **not been filed** so far

INTRODUCTION – TOPICS COVERED IN TODAY’S PROGRAM



- What to do if Income Tax Return has **been filed** but foreign income and assets have not been disclosed
- **Consequences** of not disclosing foreign income and assets
- **Penalty and Prosecution** provisions
- Different **schedules** where disclosure is to be made
- **Other provisions** of the Black Money Act
- **Question and Answers**

WHAT IS BLACK MONEY ACT?



- Enacted in **2015** by the Government of India.
- Came into force on **1st July 2015** – from AY 2016-17
- There are **7 chapters** and **88 Sections** in the Act
- ‘**Black Money**’ means money on which taxes have not been paid. In Black Money Act, however, it means undisclosed foreign income and assets.

OBJECTIVE OF THE BLACK MONEY ACT



- **To track down and bring back** the undisclosed foreign asset and income which belong to India.
- **Tax and penalize** undisclosed foreign income/assets.
- **Criminal liability** with enhanced punishment.
- Make tax evasion a **Scheduled Offence** under PMLA.

SECTION 2 – DEFINITIONS



"assessee" means a person,—

(a) who is a **resident** in India in the previous year; or

(b) Who is a **non-resident** or **not ordinarily resident** in India in the previous year, but who was resident in India either in the previous year to which the undisclosed foreign income relates; or in the previous year in which the undisclosed asset located outside India was acquired.

WHO IS RESIDENT?



- As per **clause (1) of section 6 of the Income-tax Act**,
- A **Resident** is defined as:
 - Individual who stayed in India for **182 days** or more in a year, or
 - Individual who stayed in India for **365 days** in the **last 4 years**, and **60 days or more** in the previous year.
 - HUF, Firm or AoP except when control and management is situated out of India.
 - Indian Company or a company with its effective place of management in India.
- **Non-Resident** or **Not Ordinary Resident** are not required to disclose foreign assets and income for current year.

WHAT IS INCLUDED IN FOREIGN INCOME AND ASSETS



- **Foreign assets** such as foreign bank account, foreign equity and debt interest, financial interest in any entity/business, immovable property, any other capital asset located outside India, any beneficial interest in any of the foreign assets etc.
- **Foreign income** such as interest, dividend, gross proceeds, redemption etc arising from a source located outside India.

WHO MUST REPORT FOREIGN ASSETS?



- **Any Resident in India**, who has foreign income or foreign asset.
- It includes,
 - Holding any asset (including financial interest in any entity) located outside India as beneficial owner or otherwise;
 - Beneficiary of any asset (including financial interest in any entity) located outside India;
 - Having income from a source located outside India.

WHO ARE BENEFICIAL OWNERS AND BENEFICIARIES?



- **Beneficial owner:**
 - Individual who has provided, **directly or indirectly, consideration for the asset** for the immediate or future benefit, directly or indirectly, of himself or any other person. (Explanation 4. to Section 139(1) of Income-tax Act, 1961)
- **Beneficiary:**
 - Individual who **derives benefit** from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary. (Explanation 5. to Section 139(1) of Income-tax Act, 1961)

WHERE TO DISCLOSE?



- By choosing **correct ITR** form (other than ITR-1 and ITR-4), as applicable, as per your particulars.
- ITR-1 and ITR-4 **do not have** Schedule FA, FSI and TR.

WHEN TO DISCLOSE?



- In the Income Tax Return, for the Assessment Year in which the taxpayer is resident.
- Before the due date of filing the Income Tax Return.

WHERE EXACTLY TO DISCLOSE WITHIN ITR



- Schedule FA for Foreign Assets and Income from any source outside India
- Schedule FSI for details of Income from outside India and tax relief
- Schedule TR for summary of tax relief claimed for taxes paid outside India

HOW TO DISCLOSE?



- Collate all relevant information about foreign assets (including type of asset, country, address, date of acquisition, current value of asset, cost of acquisition, income generated).
- Collate details of all foreign income (including type of income, amount earned, country, tax paid on foreign income)
- Fill the necessary details in the Schedules applicable, by referring to step-by-step guide available on incometax.gov.in
- Claim tax benefit under Double Tax Avoidance Agreement, if applicable by filling form 67, in addition to Schedule TR.

WHAT TO DO IF ITR NOT FILED



- If return not filled, belated return can be filed till 31st December, 2024.
- Foreign Assets and Income have to be declared even if income is below taxable limit.

WHAT TO DO IF ITR FILED BUT FOREIGN ASSETS AND INCOME NOT DECLARED



- Revise your return before the due date for revised return, i.e. 31st December, 2024.
- Choose correct ITR form while filing revised return (if earlier ITR-1 or ITR-4 filled).
- Furnish details of foreign income and assets in Schedule FA, Schedule FSI, and Schedule TR.

BENEFITS OF DISCLOSING FOREIGN ASSETS AND INCOME



- Compliance with disclosure requirement under Black Money Act
- Avoidance of double taxation, in relation to income earned outside, where taxes are already paid
- Prevention from penalties relating to non-disclosure and inaccurate particulars under Black Money Act

KEY DISCLOSURE REQUIREMENTS



- **Foreign property**, even if no income has been generated, must be disclosed.
- **Mandatory for all residents**, regardless of quantum of income.
- Reporting requirements under the Income-tax Act, 1961:
 - **Schedule FA**: Foreign Assets
 - **Schedule FSI**: Foreign Source Income
 - **Schedule TR**: Tax Relief
- Non-Resident Indians (NRIs) are not required unless they become residents.

CONSEQUENCES OF NON-DISCLOSURE OF FOREIGN INCOME AND ASSETS



- **Section 42: Penalty for Failure to Furnish Return Reg. Foreign Income and Assets**
 - **Resident** Indian taxpayer who is required to file a return for the previous year
 - **Held an foreign asset** (including financial interest in any entity) as a beneficial owner or otherwise; or
 - Was a **beneficiary** of any foreign asset or had **income from any foreign source**.
 - If such a person **fails to file the return** within the relevant assessment year, the Assessing Officer may impose a **penalty of ₹10 lakh**.
 - **Exceptions:** This penalty does **not apply** if aggregate **value of an asset or assets** (other than immovable property) **exceeds twenty lakh rupees**. (Effective from October 1st, 2024). No exception for income.

CONSEQUENCES OF NON-DISCLOSURE OF FOREIGN INCOME AND ASSETS



- **Section 43: Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India**
 - If a person, who has filed their return, fails to **furnish information** or **provides inaccurate particulars** about:
 - **a foreign asset** (including financial interest in any entity) held by him as a beneficial owner or otherwise; or
 - a foreign asset for which he was a **beneficiary** or had **income from any foreign source**.
 - Then, the **Assessing Officer** may impose a **penalty of ₹10 lakh**.
- **Exceptions:** This penalty does **not apply** if aggregate **value of an asset or assets** (other than immovable property) **exceeds twenty lakh rupees**. (Effective from October 1st, 2024). No exception for income.



OFFENCES AND PROSECUTIONS

Section	Offence	Punishment
49	Punishment for failure to furnish return in relation to foreign income and asset (Like section 42)	RI for 6 months to 7 years + fine
50	Punishment for failure to furnish in return of income, any information about an asset located outside India (Like section 43)	RI for 6 months to 7 years + fine
51	Punishment for wilful attempt to evade tax, penalty or interest	RI 3 years to 10 years + fine
52	Punishment for false statement in verification	RI for 6 months to 7 years + fine
53	Punishment for abetment	RI for 6 months - 7 years + fine



Those who have **not fully completed** schedule foreign assets and incomes
in their submitted **ITR (AY 2024-25)**,
the **last date** to file a **belated** and **revised ITR** is
December 31st, 2024



STEPS TO ENSURE COMPLIANCE



- **Identify** all foreign income and assets.
- Accurately fill out **Schedules FA, Schedule FSI** in the Income Tax Return.
- **Schedule TR:** DTAA allow taxpayers to claim credits for taxes paid abroad
- File a **revised return**, if necessary, before the deadline.



SCHEDULE FA - DETAILS OF FOREIGN ASSETS AND INCOME FROM ANY SOURCE OUTSIDE INDIA

- In tables A1 to G → furnish foreign assets or accounts details of the following nature

Table A1	Foreign depository accounts
Table A2	Foreign custodian accounts
Table A3	Foreign equity and debt interest
Table A4	Foreign cash value insurance contract or annuity contract
Table B	Financial interest in any entity outside India

SCHEDULE FA - DETAILS OF FOREIGN ASSETS AND INCOME FROM ANY SOURCE OUTSIDE INDIA



- In tables A1 to G → furnish foreign assets or accounts details of the following nature

Table C	Any immovable property outside India
Table D	Any other capital assets outside India
Table E	Any other account located outside India in which you are a signing authority
Table F	Trust created outside India in which you are a trustee, a beneficiary or settlor
Table G	Any other income derived from any foreign source (which is not reported in tables A1 to F)

Schedule FA		Details of Foreign Assets and Income from any source outside India									
A1	Details of Foreign Depository Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021										
Sl No	Country Region Name	Country Region Code	Name of financial institution	Address of financial institution	ZIP Code	Account Number	Status	Account opening date	Peak Balance during the period	Closing balance	Gross amount paid/credited to the account during the period
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- In table A1 (**Foreign depository accounts**), (converting into Indian currency)
 - **Peak balance** in the account during the calendar year ending as on 31st December,
 - **Closing balance** as at the end of calendar year ending as on 31st December
 - **Gross interest paid or credited to the account** during the calendar year ending as on 31st December

A2 Details of Foreign Custodial Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021												
Sl No	Country/ Region Name	Country/ Region Code	Name of financial institution	Address of financial institution	ZIP Code	Account Number	Status	Account opening date	Peak Balance During the Period	Closing balance	Gross amount paid/credited to the account during the period (drop down to be provided specifying nature of amount viz. interest/dividend/ proceeds from sale or redemption of financial assets/other income)	
											Nature of Amount	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12 a)	(12 b)

- In table A2 (**Foreign custodial accounts**)
 - **Peak balance** in the account during the calendar year ending as on 31st December
 - **Closing balance** as at the end of calendar year ending as on 31st December
 - **Gross amount** paid or credited to the account during the calendar year ending as on 31st December
 - **Nature of gross amount** paid should be specified from the drop-down list viz. **interest, dividend, proceeds from sale or redemption** of financial assets or other income

A3 Details of Foreign Equity and Debt Interest held (including any beneficial interest) in any entity at any time during the calendar year ending as on 31st December, 2021												
Sl No	Country/ Region name	Country/ Region Code	Name of entity	Address of entity	ZIP Code	Nature of entity	Date of acquiring the interest	Initial value of the investment	Peak value of investment during the period	Closing balance	Total gross amount paid/ credited with respect to the holding during the period	Total gross proceeds from sale or redemption of investment during the period
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

- In table A3 (**Foreign equity and debt interest**) ,
 - **Initial value of investment,**
 - **Peak value of investment** during the calendar year ending as on 31st December,
 - **Closing value of investment** as at the end of calendar year ending as on 31st December,
 - **Gross interest paid, total gross amount paid or credited to the** account during the calendar year ending as on 31st December, and
 - **Total gross proceeds** from sale or redemption of investment during the calendar year ending as on 31st December

A4	Details of Foreign Cash Value Insurance Contract or Annuity Contract held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021							
Sl No	Country/Region name	Country/Region Code	Name of financial institution in which insurance contract held	Address of financial institution	ZIP Code	Date of contract	The cash value or surrender value of the contract	Total gross amount paid/credited with respect to the contract during the period.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- In table A4 (**Foreign cash value insurance contract or annuity contract**),
 - **Cash value or surrender value** of the insurance contract or annuity contract as at the end of calendar year ending as on 31st December and
 - **Total gross amount paid or credited** with respect to the contract is required to be disclosed after converting the same into Indian currency.

B Details of Financial Interest in any Entity held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021												
Sl No	Country/Region Name and code	Zip Code	Nature of entity	Name and Address of the Entity	Nature of Interest	Date since held	Total Investment (at cost)	Income accrued from such Interest	Nature of Income	Income taxable and offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2a)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- In table B (**Financial interest in any entity outside India**),
 - **Value of total investment at cost** held at any time during the calendar year ending as on 31st December
 - **Nature and amount of income accrued** therefrom during the calendar year ending as on 31st December
 - Amount of **income which is chargeable to tax in India**, out of the foreign source income, should also be specified at column (10). The relevant Schedule of the ITR where income has been offered to tax should be mentioned at column (11) and (12).

C	Details of Immovable Property held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021										
Sl No	Country/Region Name and Code	Zip Code	Address of the Property	Ownership- Direct/ Beneficial owner/ Beneficiary	Date of acquisition	Total Investment (at cost) (in rupees)	Income derived from the property	Nature of Income	Income taxable and offered in this return		
									Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

- In table C (**Any immovable property outside India**),
 - **Value of total investment at cost** in the immovable property held at any time during the calendar year ending as on 31st December
 - **Nature and amount of income derived** from the property during the calendar year ending as on 31st December
 - Amount of **income which is chargeable to tax** in India, out of the foreign source income, should also be specified at column (9). The relevant Schedule of the ITR where income has been offered to tax should be mentioned at column (10) and (11).

D	Details of any other Capital Asset held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021										
Sl No	Country/Region Name and code	Zip Code	Nature of Asset	Ownership- Direct/ Beneficial owner/ Beneficiary	Date of acquisition	Total Investment (at cost) (in rupees)	Income derived from the asset	Nature of Income	Income taxable and offered in this return		
									Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

- In table D (**Any other capital assets outside India**),
 - **Value of total investment at cost** of any other capital asset held at any time during the calendar year ending as on 31st December
 - **Nature and amount of income derived** from the capital asset during the calendar year ending as on 31st December
 - Amount of **income which is chargeable to tax** in India, out of the foreign source income, should also be specified at column (9). The relevant Schedule of the ITR where income has been offered to tax should be mentioned at column (10) and (11).

E	Details of account(s) in which you have signing authority held (including any beneficial interest) at any time during the calendar year ending as on 31st December, 2021 and which has not been included in A to D above.											
Sl No	Name of the Institution in which the account is held	Address of the Institution	Country/Region Name and Code	Zip Code	Name of the account holder	Account Number	Peak Balance/ Investment during the year	Whether income accrued is taxable in your hands?	If (7) is yes, Income accrued in the account	If (7) is yes, Income offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2)	(3)	(3a)	(3b)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

- In table E (**Any other account located outside India in which you are a signing authority**),
 - Value of peak balance or total investment at cost, in respect of the accounts in which you have a **signing authority**, during the calendar year ending as on 31st December
 - **Only those foreign accounts which have not been reported in table A1 to table D** above should be reported in this table.

F	Details of trusts, created under the laws of a country outside India, in which you are a trustee, beneficiary or settlor											
Sl No	Country/ Region Name and Code	Zip Code	Name and address of the trust	Name and address of trustees	Name and address of Settlor	Name and address of Beneficiaries	Date since position held	Whether income derived is taxable in your hands?	If (8) is yes, Income derived from the trust	If (8) is yes, Income offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- In table F (**Trust created outside India in which you are a trustee, a beneficiary or settlor**),
 - Details of trusts set up under the laws of a country outside India in which you are a **trustee, beneficiary or settlor** is required to be disclosed.
 - In case any income derived from such trust is taxable in your hands in India, please specify the amount of income which is chargeable to tax in India at column (10) and the relevant Schedule of the ITR at column (11) and (12)

G	Details of any other income derived from any source outside India which is not included in,- (i) items A to F above and, (ii) income under the head business or profession								
Sl No	Country/Region Name and Code	Zip Code	Name and address of the person from whom derived	Income derived	Nature of income	Whether taxable in your hands?	If (8) is yes, Income offered in this return		
							Amount	Schedule where offered	Item number of schedule
(1)	(2)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- In table G (**Any other income derived from any foreign source (which is not reported in tables A1 to F)**),
 - Details of any other income, derived from any foreign source, which is **not included in the tables A1 to F** above is required to be disclosed.
 - In case any income out of the income derived from foreign source is taxable in your hands in India, please specify the amount of income which is chargeable to tax in India at column (7) and the relevant Schedule of the ITR at column (8) and (9).

SCHEDULE FSI - DETAILS OF INCOME FROM OUTSIDE INDIA AND TAX RELIEF



- Schedule FSI is applicable for the taxpayer who is resident in India.
- Report the details of **income**, which is **accruing or arising from any source outside India**.
- Income should be separately reported in the **head-wise** computation of total income.
- The relevant head of income under which such foreign source income has been reported should also be duly mentioned in the relevant column here

Schedule FSI		Details of Income from outside India and tax relief (Available only in case of resident)								
INCOME FROM OUTSIDE INDIA	Sl. No.	Country Code	Taxpayer Identification number	Sl. No.	Head of Income	Income from outside India (included in PART B-TI)	Tax paid outside India	Tax payable on such income under normal provisions in India	Tax relief available in India (e) = (c) or (d) whichever is lower	Relevant article of DTAA if relief claimed u/s 90 or 90A
					(a)	(b)	(c)	(d)	(e)	(f)

- For country code use the International Subscriber Dialing (ISD) code of the country.
- The **Tax Payer Identification Number (TIN)** of the assessee in the country where tax has been paid is to be filled up. (Passport number)
- In case any **tax has been paid outside India** on such foreign source income and tax relief, as admissible, is being claimed in India, the **relevant article of applicable DTAA**
- Details of foreign tax credit and income are reported in **Form 67** in order to claim credit.

SCHEDULE TR - DETAILS OF INCOME FROM OUTSIDE INDIA AND TAX RELIEF



- Summary of tax relief which is being claimed in India for taxes paid outside India in respect of each country.
- This Schedule captures a summary of detailed information furnished in the Schedule FSI.

SCHEDULE TR - SUMMARY OF TAX RELIEF CLAIMED FOR TAXES PAID OUTSIDE INDIA (AVAILABLE ONLY IN CASE OF RESIDENT)

1	Details of Tax relief claimed					
	Sl. No.	Country Code	Taxpayer Identification Number	Total taxes paid outside India (total of (c) of Schedule FSI in respect of each country)	Total tax relief available (total of (e) of Schedule FSI in respect of each country)	Section under which relief claimed (specify 90, 90A or 91)
		(a)	(b)	c)	(d)	(e)
	Total			0	0	
2	Total Tax relief available in respect of country where DTAA is applicable (section 90 /90A) (Part of total of 1(d))					0
3	Total Tax relief available in respect of country where DTAA is not applicable (section 91) (Part of total of 1(d))					0
4	Whether any tax paid outside India, on which tax relief was allowed in India, has been refunded/credited by the foreign tax authority during the year? If yes, provide the details below					
	a	Amount of tax refunded			0	
	b	Assesment year in which tax relief allowed in India				

BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015



SECTION 2 - DEFINITIONS



- “...(11) “**undisclosed asset located outside India**” means an asset (including financial interest in any entity) located outside India, held by the assessee **in his name or in respect of which he is a beneficial owner**, and he has **no explanation about the source** of investment in such asset or the explanation given by him is in the opinion of the Assessing Officer unsatisfactory;...”

UNDISCLOSED ASSET LOCATED OUTSIDE INDIA



- This can include any asset located outside India such as:
 - **Bank accounts:** Foreign bank accounts in countries like Switzerland, the US, or the UK.
 - **Real estate:** Property holdings (residential, commercial, or land) in foreign countries.
 - **Investments:** Shares, bonds, stocks, mutual funds, or other financial investments held abroad.
 - **Cash Value Insurance Policies:** Life insurance policies that have a cash value component issued outside India.

UNDISCLOSED ASSET LOCATED OUTSIDE INDIA



- This can include any asset located outside India such as:
 - **Financial Interests in Entities:** Shareholding, partnerships, or financial interests in foreign companies.
 - **Trustee/Beneficiary Roles in Foreign Trusts:** Any roles held in foreign trusts.
 - **Signing Authority Over Accounts:** If you have authority to sign on bank accounts abroad, it qualifies as a foreign asset
 - **Other Assets:** Assets such as artwork, jewelry, or other valuables stored in foreign jurisdictions.

UNDISCLOSED ASSET LOCATED OUTSIDE INDIA



- **Examples:**
 - A person owning a **bank account in Singapore**, with significant balances. The funds in the accounts are acquired through illegal means.
 - An Indian resident who has purchased a **property in Dubai** through **unaccounted cash** generated in India.

SECTION 2 - DEFINITIONS



- “...(12) “**undisclosed foreign income and asset**” means the total amount of **undisclosed income of an assessee from a source located outside India** and the value of an undisclosed asset located outside India, referred to in section 4, and computed in the manner laid down in section 5;...”
- It includes any income that an **Indian resident taxpayer** earns from foreign sources that has **not been offered to tax** while filing income tax return, and the value of undisclosed asset located outside India.

UNDISCLOSED FOREIGN INCOME AND ASSET



- This includes income generated from sources outside India, such as:
 - Foreign bank accounts (**Interests, credits, etc.**)
 - Foreign investments (**Purchase/ sale of shares, bonds, etc.**).
 - Property or real estate abroad (**Rental income, capital gains, etc.**).
 - Foreign business income (**Profits from businesses outside India**).
- Value of undisclosed asset located outside India.

SECTION 3: CHARGE OF TAX



“....(1) There shall be charged on **every assessee for every assessment year** commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, a tax in respect of his total undisclosed foreign income and asset of the previous year **at the rate of thirty per cent** of such **undisclosed income and asset**:

Provided that an undisclosed asset located outside India shall be **charged to tax on its value in the previous year** in which such asset comes to the notice of the Assessing Officer....”

SECTION 3: CHARGE OF TAX



- “....(2) For the purposes of this section, —value of an undisclosed asset means the **fair market value of an asset** (including financial interest in any entity) determined in such manner as may be prescribed....”
- **Rule 3** of Black Money (UFIA) and Imposition of Tax Rules, 2015
- Fair market value of:
 - bullion, jewellery or precious stone
 - shares and securities, account with a bank etc.
 - interest of a person in Firm, AoP etc.

SECTION 5: COMPUTATION OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET



- Subsection (1)

“....In **computing** the total undisclosed foreign income and asset of any previous year of an assessee,—

(i) **no deduction** in respect of any **expenditure or allowance** or **set off** of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the Income-tax Act;.....”

SECTION 5: COMPUTATION OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET



“.....(ii) **any income**,— (a) which has been **assessed to tax** for any assessment year under the Income-tax Act prior to the assessment year to which this Act applies; or (b) which is assessable or has been assessed to tax for any assessment year under this Act,

shall be reduced from the value of the **undisclosed asset located outside** India, if, the assessee furnishes evidence to the satisfaction of the Assessing Officer that the asset has been acquired from the income which has been assessed or is assessable, as the case may be, to tax.....”

SECTION 5: COMPUTATION OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET



- Computation of the total **undisclosed foreign income and asset** of an assessee,
 - **No deductions** are allowed for any **expenditure, allowance, or set-off of any loss** when computing
 - **Reduction for taxed or assessable income**

PENALTIES



- **Section 41:** Penalty in relation to undisclosed foreign income and asset.
 - If tax is computed after assessment for undisclosed foreign income and assets, the Assessing Officer may impose a **penalty in addition to the tax** payable.
 - The penalty will be **three times the tax** computed under Section 10 for undisclosed foreign income and assets.
 - Thus, a total 120% of the “total undisclosed foreign income and asset” shall be charged.

QUESTION 1



- A **person** holds certain **foreign assets** which are fully explained and **acquired out of tax paid** income. However, he has **not reported** these assets in Schedule FA of the Income-tax Return in the past.

ANSWER



- Since, these assets are fully explained they are not treated as undisclosed assets located outside India. Hence, no assessment will be done.
- However, since these assets are not reported in Schedule FA of the Income-tax Return for assessment year 2016-17 or any subsequent assessment year by a person, being a resident (other than not ordinarily resident), then he shall be liable for penalty of Rs. 10 lakhs under section 43 of the Act for each assessment year. Prosecution is also applicable.

QUESTION 2



- A person held a **foreign bank account** for a limited period between **1994-95 and 1997-98** which was **unexplained**. Since such account was **closed in 1997-98**, is the Black Money Act attracted in this case?

ANSWER



- Yes
- Since the **investment** in the bank account was **unexplained** and was from **untaxed income**, the consequences of non-declaration may arise under the Act at any time in the future when the information of such account comes to the notice of the Assessing Officer. There will be assessment under section 10 the Black Money Act.

QUESTION 3



- A person **inherited** a foreign house property in 2003-04 from his father who is no more. Such property was **acquired from unexplained sources** of investment. The property was **sold** by the person in 2011-12. Are the provisions of the Black Money Act applicable in this case?

ANSWER



- Yes
- Since the property was acquired from unexplained sources of investment, the **provisions of Black Money Act** are applicable to the **person who inherited** the property in the capacity of legal representative of his father.
- If the property were acquired from explained sources, there will be no assessment. But non-disclosure would entail penal provisions.

QUESTION 4



- A person was **employed in a foreign country** where he **acquired** or made an asset **out of income earned in that country**. Whether such asset is required to be disclosed while filing Income-tax Return?

ANSWER



- If the person is resident, he must disclose the asset located outside India.

QUESTIONS & DISCUSSION



➤ Open the floor for questions.